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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,884	06/20/2003	Annette M. Wagner	SUNMP326	6790
32291 7590 10/31/2007 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER TRAN, MYLINH T	
			ART UNIT 2179	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/600,884

Applicant(s)

WAGNER, ANNETTE M.

Examiner

Mylinh Tran

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,10-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 7-8, 10-19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's Amendment filed 07/03/07 has been entered and carefully considered. Claims 1, 18 and 23 have been amended. However, the limitations of the amended claims have not been found to be patentable over newly discovered prior art. Therefore, claims 1, 3-5, 7-8, 10-19 and 21-23 are rejected under the new ground of rejection as set forth below.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3-5, 7, 8, 10-19 and 21-23 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-5, 7-8, 10-18, 20-22 of U.S. Patent No. 10/600,185. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both disclose the same method of traversing the main portion to a tertiary tab, wherein traversing the main portion to the tertiary tab includes opening the tertiary tray by highlighting the tertiary tab, wherein opening the tertiary tray includes displaying the tertiary tray in the mobile device display, the tertiary tray including a second icon.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 7-8, 10-19 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Smethers [US. 2004/0142720].

As to claims 1 and 18, Smether teaches highlighting a first icon in a main portion of the mobile device display (figures 5A-5D); traversing the main portion to a tertiary tab, wherein traversing the main portion to the tertiary tab (page 3, 0038) includes opening the tertiary tray by highlighting the tertiary tab (0039), wherein opening the tertiary tray includes displaying the tertiary tray in the mobile device display and wherein opening the tertiary tray includes rearranging only a portion of the main portion of the mobile device display such that the first icon is visible in the main portion of the mobile device display (figures 4A-4D, pages 4, 0049), the tertiary tray including at least one scroll button and a second link (figures 5A-5D, page 6-7, 0062-0066); and highlighting the second icon, wherein a single navigation key is used to traverse the main portion and to highlight the second link (figure 5A-5D); the tertiary tray being adjacent to a horizontal edge of the mobile device display (figure 5A).

As to claim 3, Smethers teaches selecting the scroll button such that a third link is displayed in the tertiary tray (figure 5A, 501).

As to claim 4, Smethers also teaches the scroll button including shifting the second link (figure 5A, 501).

As to claim 5, Smethers teaches shifting the second link including not displaying the second icon in the tertiary tray (figure 5A-5F).

As to claim 7, Smethers teaches opening the tertiary tray including covering at least part of the main portion of the mobile device display (figure 5A-5F).

As to claim 8, Smethers also teaches covering at least part of the main portion of the mobile device display including covering at least part of the first link (figure 5C).

As to claim 10, Smethers teaches opening the tertiary tray including scaling at least part of the main portion of the mobile device display (figures 6A-6D).

As to claim 11, Smethers also teaches opening the tertiary tray including shifting at least part of the main portion of the mobile device display (figures 4A-4D).

As to claim 12, Smethers teaches selecting the second link (figure 5F).

As to claim 13, Smethers also teaches selecting the second link initiating an application corresponding to the second link (figures 5F and 6A).

As to claim 14, Smethers teaches selecting the second link closing the tertiary tray (figures 5F and 6A).

As to claim 15, Smethers also teaches selecting the second link causing the second icon to be displayed in the main portion of the mobile device display (figures 5F and 6A).

As to claim 16, Smethers teaches displaying the second link in the main portion of the mobile device display including removing the first icon from the main portion of the mobile device display (figures 5F and 6A).

As to claim 17, Smethers teaches displaying the second link in the main portion of the mobile device display including moving the first icon in the main portion of the mobile device display (figures 5A-5D).

As to claim 19, Smethers also teaches the main portion including a first set of icons including the first icon and the tertiary tray including a second set of icons and wherein the first set of icons is a subset of the second set of icons (figures 5A-5D).

As to claim 21, Smethers also teaches the tertiary tray being not displayed until the tertiary tab is highlighted (figure 5C).

As to claim 22, Smethers teaches the mobile device display being included in a mobile device (figure 5A).

As to claim 23, Smethers teaches highlighting a first icon in a main portion of the mobile device display (figures 5A-5D); traversing the main portion to a tertiary tab, wherein traversing the main portion to the tertiary tab page 3, 0038) includes opening the tertiary tray by highlighting the tertiary tab (0039), wherein opening the tertiary tray includes displaying the tertiary tray in the mobile device display and wherein opening the tertiary tray includes rearranging only a portion of the main portion of the mobile device display such that the first icon is visible in the main portion of the mobile device display (figures 4A-4D, pages 4, 0049), the tertiary tray including at least one scroll button and a second link (figures 5A-5D, pages 6-7, 0062-0066); and highlighting the second link, wherein a single navigation key is used to traverse the main portion and to highlight the second link (figures 5A-5D); traversing the tertiary tray to highlight the scroll button (figure 5A, 501); selecting the scroll button such that a third link is displayed in the tertiary tray

(figure 5A-5D); and selecting the third link, wherein selecting the third link initiates a corresponding application (figure 5F).

Response to Arguments

Applicant's arguments with respect to claims 1, 18 and 23 have been considered but are moot in view of the new ground of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Mylinh Tran

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BA HUYNH
PRIMARY EXAMINER